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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

MAY 31 1996

In the Matter of)

Allocation of Costs Associated with)
Local Exchange Carrier Provision of)
Video Programming Services)

CC Docket No. 96-112

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COMMENTS OF SCRIPPS HOWARD CABLE COMPANY

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Date: May 31, 1996

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SUMMARY

Scripps Howard Cable Company supports the Commission's proposal to adopt a fixed allocator to divide costs between a local exchange carrier's use of the same network facilities to provide regulated and unregulated offerings. To date, the Commission has provided no guidelines as to the appropriate allocation of costs of shared facilities. As a result, cable operators currently face the risk of competing against highly subsidized rates, and ratepayers face the risk of financing entry into unregulated services by local exchange carriers. The expeditious adoption of a fixed allocator will ensure that the costs of shared facilities are fairly apportioned between regulated and nonregulated services.

The Commission should specify that the cost allocator will apply to facilities that have already been installed for the provision of video delivery services. Furthermore, an appropriate portion of the value of rights-of-way enjoyed by local exchange carriers should be allocated to unregulated services as well. The Commission should recognize, however, that some facilities will not likely constitute "shared" facilities, and such equipment should be wholly accounted for as equipment associated with unregulated services.

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To: The Commission

COMMENTS OF SCRIPPS HOWARD CABLE COMPANY

1. Scripps Howard Cable Company ("Scripps Howard"), through counsel, hereby submits the following comments in response to the above-captioned Notice of Proposed Rulemaking ("Notice") regarding the allocation of costs associated with local exchange carrier provision of video programming services. Scripps Howard strongly supports the Commission's proposal to adopt a fixed allocator to divide costs between a local exchange carrier's use of the same network facilities to provide unregulated services, such as video programming, and telephony and other Title II-regulated offerings. Scripps Howard further encourages the Commission to adopt a fixed allocator as expeditiously as possible, since incumbent cable operators--including Scripps Howard--are currently facing competition from incumbent local exchange carriers. All parties, including consumers, will benefit from the promptest possible resolution of these basic cost issues.

2. In February 1995, the Commission's staff granted BellSouth Telecommunications, Inc. ("BellSouth") authority to

construct and operate integrated network facilities for a trial of video dialtone (VDT) service in the city of Chamblee, Georgia, and adjacent communities in DeKalb County, Georgia.¹ A Scripps Howard subsidiary, North DeKalb Cable Company, operates a cable system in the area encompassed by BellSouth's trial. Subsequently, BellSouth announced that it would provide video services through its affiliate, BellSouth Interactive Media Services, Inc. ("BIMS"). After the passage of the Telecommunications Act of 1996, BellSouth stated that it would abandon VDT service and instead offer cable service in Chamblee and, upon receiving a local franchise, North DeKalb County. BellSouth will own the physical plant necessary to transmit video programming, and will lease the plant to BIMS, which in turn will hold the local franchises.

3. While BellSouth is free to compete against Scripps Howard's North DeKalb Cable, the Commission as yet has provided no guidelines as to the appropriate allocation of costs of shared facilities that BellSouth may use jointly for regulated and nonregulated activities. Thus, none of the parties know what BellSouth's costs of offering video service will be. As a consequence, North DeKalb Cable anticipates that it may well be required to compete against highly subsidized rates, and that local telephone ratepayers will finance BellSouth's entry into video. BellSouth likewise cannot make informed business

¹See Order and Authorization (W-P-C-6977), released February 8, 1995.

decisions about its venture because it lacks essential cost information--the first question any entrepreneur must ask.

4. The Notice recognizes the difficulties of addressing cost issues, and these difficulties are highlighted by the history of Scripps Howard's and other parties' unsuccessful attempts to require consideration of cost factors early in the regulatory process associated with telephone company entry into the video market. Given this history, the adoption of a fixed cost allocator appears to be the only avenue to achieving, in any reasonable time frame, the statutory requirement that costs of shared facilities be fairly apportioned between regulated and nonregulated activities, thereby ensuring that rates for the provision of video services adequately reflect the costs for providing those services, and ensuring that ratepayers do not improperly subsidize competitive services.

5. Importantly, in adopting a fixed cost allocator, the Commission should state that this process will apply to facilities that have already been installed for the provision of video delivery services and other already-incurred shared costs.² Similarly, the Commission should consider the fact that local exchange carriers enjoy certain rights-of-way which may be used in the provision of unregulated services. An appropriate portion of the value of those rights-of-way should be allocated to unregulated services as well. Only by applying the fixed cost

² BellSouth, for example, has already installed facilities throughout the Chamblee and North DeKalb service areas following the grant of its VDT authorization.

allocator to already constructed facilities that will be used for both regulated and unregulated services, as well as to such facilities to be installed in the future, can the Commission meet the requirement that ratepayers do not improperly subsidize rates for video services.⁴

6. Furthermore, in adopting specific requirements, the Commission should address the issue that some facilities which theoretically could be used for regulated services will not likely constitute "shared" facilities. For instance, BellSouth has installed coaxial cable in the Chamblee/North DeKalb area for the provision of video service. It seems highly unlikely that this coaxial cable will be used in the future for the provision of regulated telephony; accordingly, this equipment should not be subject to a cost allocation formula, but instead should be wholly accounted for as equipment associated with unregulated services. In disputed circumstances, the burden should be squarely on the local exchange carrier to show that the facilities are appropriately subject to the cost allocations formula at all.

7. Finally, it cannot be overemphasized that the Commission should move expeditiously to adopt the appropriate fixed cost allocation factor. As explained above, cable companies are currently facing competition from local exchange

⁴BellSouth was forewarned in the Order and Authorization that it was "subject to any Commission rules or orders that result from any existing or future proceeding or proceedings that address video dialtone cost allocations, jurisdictional separations, and pricing issues." Id. at ¶ 53.

carriers, and ratepayers are already at risk of bearing the costs of entry into video by local exchange carriers. In the absence of clear cost guidelines, it can be presumed that ratepayers in such areas are not paying telephone rates that are just and reasonable as mandated by the Communications Act.⁴

8. The Commission's cost allocation proposal provides a clear and efficient method to help meet the Commission's obligation to ensure that local exchange carriers do not burden ratepayers with the expense of entering the video marketplace. Furthermore, adopting the proposal would permit a local exchange carrier to assess the costs of constructing a cable or other video delivery system when constructing that system. As such, the Commission's proposal serves the public interest.

Respectfully submitted,



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⁴47 C.F.R. § 201(b).